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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/117,401	04/03/2002	Andrew J. Black	HARD1.060A	6379

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EXAMINER

MIGGINS, MICHAEL C

ART UNIT	PAPER NUMBER
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1772

DATE MAILED: 03/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/117,401	BLACK ET AL	
	Examiner	Art Unit	
	Michael C. Miggins	1772	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 November 2004.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 and 36-67 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 and 36-67 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

REJECTIONS WITHDRAWN

1. The 35 USC 112 1st paragraph rejection of claims 1, 43 and 60 set forth in the non-final rejection of 8/25/04, pages 2-3, paragraphs 4-5 has been withdrawn.

REJECTIONS REPEATED

2. All of the 35 USC 102 (b) rejections are repeated for the reasons of record set forth in the non-final rejection of 8/25/04, pages 3-5, paragraphs 6-7. All of the 35 USC 103(a) rejections are repeated for the reasons of record set forth in the non-final rejection of 8/25/04, pages 5-14, paragraphs 8-17.

Applicant has amended claims 1, 43, 50 and 64 to recite that a reinforcing fixture is bonded to a localized area of weakness wherein the localized area contains at least one area where additional tensile or impact strength is needed. Although Bado does not specifically recite such a limitation, Bado does teach three support members (130 from Fig. 5), two at either end and one which is centered, which are support members and act as reinforcement (page 9, lines 4-9). Applicant does not claim where on the cement article the localized areas which contain at least one area where additional tensile or impact strength is needed are. Applicant discloses in the instant figures and specification the reinforcing fixtures are centered (Fig. 66, see also instant specification pages 56, paragraphs [0303] – [0318]) and placed at the ends of the cement article (Figs. 67-69, see also instant specification pages 56, paragraphs [0303] – [0318]). Therefore, Bado inherently discloses a reinforcing fixture is bonded to a localized area

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of weakness wherein the localized area contains at least one area where additional tensile or impact strength is needed since Bado discloses three support members (130 from Fig. 5), two at either end and one which is centered, which are support members and act as reinforcement (page 9, lines 4-9) which is exactly where applicant discloses that the reinforcing fixtures are placed.

Applicant has amended claims 36, 43 and 58 to recite that the fiber cement article has a thickness of less than 5/16 of an inch. However, Tamlyn discloses a cement article with a thickness of *about* 5/16 inch and not more than 3/8 inch (column 2, lines 45-48) which would include values slightly less than 5/16 of an inch because of the term about. Because Tamlyn discloses *about* 5/16 of an inch the disclosure of Tamlyn reads on applicant's recited range of less than 5/16 of an inch since Tamlyn includes values which are slightly less than 5/16 of an inch.

ANSWERS TO APPLICANT'S ARGUMENTS

4. Applicant's arguments filed 11/29/04 have been carefully considered but are deemed unpersuasive.

Applicant's arguments with regard to the 112 1st paragraph rejections are moot since these rejections have been withdrawn.

With regard to the 102 rejections applicant has argued that Bado does not teach applying reinforcing fixtures to localized areas needing additional tensile or impact strength. Although Bado does not specifically recite such a limitation, Bado does teach three support members (130 from Fig. 5), two at either end and one which is centered,

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which are support members and act as reinforcement (page 9, lines 4-9). Applicant does not claim where on the cement article the localized areas which contain at least one area where additional tensile or impact strength is needed are. Applicant discloses in the instant figures and specification the reinforcing fixtures are centered (Fig. 66, see also instant specification pages 56, paragraphs [0303] – [0318]) and placed at the ends of the cement article (Figs. 67-69, see also instant specification pages 56, paragraphs [0303] – [0318]). Therefore, Bado inherently discloses a reinforcing fixture is bonded to a localized area of weakness wherein the localized area contains at least one area where additional tensile or impact strength is needed since Bado discloses three support members (130 from Fig. 5), two at either end and one which is centered, which are support members and act as reinforcement (page 9, lines 4-9) which is exactly where applicant discloses that the reinforcing fixtures are placed.

With regard to the 103 rejections employing Bado in view of Tamlyn, applicant has argued that Tamlyn does not teach the fiber cement article having a thickness of less than $5/16$ of an inch. However, Tamlyn discloses a cement article with a thickness of *about* $5/16$ inch and not more than $3/8$ inch (column 2, lines 45-48) which would include values slightly less than $5/16$ of an inch because of the term *about*. Because Tamlyn discloses *about* $5/16$ of an inch the disclosure of Tamlyn reads on applicant's recited range of less than $5/16$ of an inch since Tamlyn includes values which are slightly less than $5/16$ of an inch. Applicant also argues that Bado does not teach applying reinforcing fixtures to localized areas needing additional tensile or impact strength. This argument is addressed above.

With regard to all other 103 rejections, applicant has argued that Bado does not teach applying reinforcing fixtures to localized areas needing additional tensile or impact strength. This argument is addressed above.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

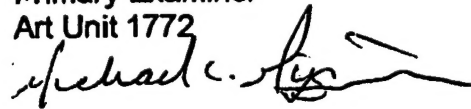
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael C. Miggins whose telephone number is 571-272-1494. The examiner can normally be reached on 1:00-10:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Y Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Michael C. Miggins
Primary Examiner
Art Unit 1772



MCM
March 10, 2005